

HR Weekly Podcast

1/11/08

Today is January 11, 2008, and welcome to the HR weekly podcast from the State Office of Human Resources. This week's podcast concerns information about interviewing and hiring.

Earlier this week, attorneys Susan P. McWilliams and William H. Floyd, III, of the Nexsen Pruet Law Firm provided important information in their presentation, Starting Off Right: Helpful Tips for Interviewing and Hiring. According to that presentation for employers to find the most qualified applicant for a vacancy and to be successful when hiring decisions are legally challenged, pre-employment documentation should include the following: an updated position description that clearly delineates essential and non-essential duties, documentation of consistent advertising, necessary consent forms, and communication of important agency policies. All documentation must comply with applicable federal and state laws. If an agency requires background checks, pre-employment documentation should include necessary consent forms and notification to the employee that any job offers are contingent upon results of the background checks. This documentation can help protect employers from any allegations that oral promises of employment were made to applicants.

Upon hiring, a new employee should sign a document concerning terms of employment which describes the amount, method, and frequency of payment of wages. A copy of the signed document should be placed in the employee's personnel file, along with documentation of the employee's non-exempt or exempt status to comply with the Fair Labor Standards Act, or FLSA.

Also according to the Nexsen Pruet presentation, many employers use employment tests as an effective evaluation tool to help select the most qualified applicant for a particular job. There are basically five types of employment tests used: cognitive, physical ability, sample job tasks, medical examinations, and personality or integrity tests. Each test measures or assesses different skills or abilities necessary to perform effectively a particular job or task.

Before administering a test to any applicant, an employer should ensure that the test is fair, consistent, and non-discriminatory. To help avoid allegations of discrimination, employers should ask themselves these questions before testing an applicant: *Does a test have a disparate impact on a protected class? Can the employer show that the selection procedure is job-related and consistent with business necessity? Is there a less discriminatory alternative?* Recent EEOC litigation and settlements indicate the costly consequences when employers fail to understand the importance of properly validating testing procedures and ensuring that employment tests are free of discrimination.

In 1978, the Equal Employment Opportunity Commission, or EEOC, established uniform guidelines on Employee Selection Procedures to help employers avoid testing and selection procedures that have a disparate impact on certain groups of applicants. These guidelines and "Best Practices" are still in place today and can be found on EEOC's website at eeoc.gov.

If you should have any questions regarding any information in this podcast, please call your HR Consultant at 737-0900.

Thank you.